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Date  
*Scott W. Kelley*  
By: *Scott W. Kelley*  
Scott W. Kelley, Reg. No. 30,762  
October 16, 1997  
Date of Signature

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of ) Group Art Unit: 3205  
)  
ROBERT R. REAVER, ET AL. ) Examiner: Rowan, K.  
)  
Serial No. 08/428,918 )  
)  
Filed: April 25, 1995 )  
)  
For: COMBINATION FLY )  
SWATTER AND INSECT )  
TRAP )

Woodland Hills, California

SECOND SUPPLEMENTAL DECLARATION OF  
ROBERT R. REAVER AND CAROL REAVER

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

1. As the below-named inventors, we hereby declare that:
2. Our residence, post office address and citizenship are as stated below next to our names.
3. We believe we are the original, first and joint inventors of the subject matter which is described and claimed in U.S. Patent No. 5,207,018, granted May 4, 1993, and in reissue patent application serial number 08/428,918 filed April 25, 1995.

4. We hereby state that we have reviewed and understand the contents of the reissue patent application specification, including the claims.

5. We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56.

6. We believe the original patent to be partly inoperative or invalid because of error without any deceptive intent on the part of the Applicants, by reason that we claimed less than we had a right to claim in the above-identified U.S. Letters Patent.

7. To recap the events which led to our discovery of the errors leading to this reissue application, since the issuance of U.S. Patent No. 5,207,018 on May 4, 1993, we have been actively designing and redesigning various models of combination fly swatters and insect traps which embody our invention, in order to find a design that could be economically manufactured.

8. To the point of filing the reissue patent application, we had designed ten different types of combination fly swatters and insect traps embodying our invention, but it wasn't until the ninth prototype that we discovered a particular design that could be mass-produced at a reasonable price to provide a product of acceptable quality.

9. Neither my wife nor I were familiar with the various molding techniques available to manufacture a combination fly swatter and insect trap of the present invention at the time our original patent No. 5,207,018 issued May 4, 1993. Subsequently, in connection with our development of the combination fly swatter and insect trap, we have learned a great deal, and determined that it is important that a product embodying our invention be capable of being mass-produced using vacuum thermoform molding methods. Prior to this

discovery on our part, we attempted to pursue manufacture of products embodying our invention requiring injection molding techniques. The mold expense (\$20,000.00 to \$30,000.00) is too great for this particular product. However, vacuum thermoform machines are available today, as we have learned during our investigation, that require only a few thousand dollars in tooling to produce a high quality of product in a short amount of time at a competitive price.

10. After settling upon a design embodying our invention that can also be manufactured using vacuum thermoform molding techniques, Robert R. Reaver met with our patent attorney, Scott W. Kelley, Esq., on February 16, 1995 to compare the claims of our patent No. 5,207,018 against a new prototype. We were informed that none of our issued patent claims read literally on our new prototype.

11. In particular, our new prototype includes a planar closure member which cannot be characterized as "mesh". This limitation, however, is found in each of the issued claims. We believe that requiring devices embodying our invention to have a "mesh" closure member would needlessly and prohibitively increase the cost of the end product.

12. During our meeting with Mr. Kelley we were also informed that the recitation of "a rear slide clamp" might be interpreted too narrowly in view of our new prototypes, although these prototypes include functionally equivalent structure. We were advised that language such as "rear slide clamp means on the rear end portion of the closure member through which the handle slidably extends" more clearly and directly reads on our new prototypes, wherein the rear end portion of our molded closure member actually provides the clamp onto the handle, rather than a separate member.

13. As a result of our discussions with Mr. Kelley we decided that the issued claims contained mistakes that unnecessarily limited their scope and that it would be important to make relatively minor adjustments to our patent claims to ensure that product embodying our invention is clearly covered and protected by our patent. We, therefore, authorized the preparation and filing of this application.

14. Between February 16, 1995 and the filing of the reissue patent application, we became convinced that the limitation of the "mesh" closure member was unnecessary to the invention, that such a limitation was included due to an oversight by both of us, and that this constituted a mistake of sufficient magnitude to warrant the filing of a reissue application. Additionally, and also during this time period, we became convinced that the recitation of "a rear slide clamp attached to the rear end portion of the mesh closure member, having a central notch through which the handle slidably extends" could be interpreted so as to not literally cover our new prototype embodying the invention, and that it would be desirable to correct the claim language as set forth in paragraph 12 above. Moreover, and also during the time period between February 16, 1995 and the filing date of the reissue application, while reviewing the issued patent claims we decided that "track means" was a more desirable and broader term to use in the claims than "a track", and that claim 8 contained a typographical error requiring substitution of the word --placed-- for "place".

15. Accordingly, claims 1, 3, 4, 5, 8, 9, 13, 17 and 18 of the original issued U.S. Patent No. 5,207,018 have been changed as follows (reference to line numbers are to the line numbers of the claims appearing in the issued patent):

Claim 1. A hand held fly swatter apparatus capable of being configured to capture insects alive from given surfaces to allow their subsequent disposal, the apparatus comprising:

an elongate handle having a rear end intended to be grasped by a user, and a front end;

a rigid housing attached to the front end of the handle and defining an insect trap compartment having a large aperture through which an insect is placed within the insect trap compartment, the housing including an upper wall and interconnected side walls extending downwardly to define the compartment aperture, and [a] track means positioned adjacent to an edge of the compartment aperture;

a planar [mesh] closure member supported [within] by the track means and slidably between a retracted position to permit access to the insect trap compartment through the compartment aperture, and an extended position wherein the [mesh] closure member covers the compartment aperture, wherein the housing and the [mesh] closure member, in its extended position, cooperatively provide a fly swatter; and

means for slidably supporting a rear end portion of the [mesh] closure member relative to the handle, including [a] rear slide camp means on [attached to] the rear end portion of the [mesh] closure member [, having a central notch] through which the handle slidably extends.

In claim 3, line 2, --means-- is inserted after "track"; and on line 5, "mesh" is deleted.

In claim 4, line 2, "mesh" is deleted.

In claim 5, line 3, --means-- is inserted after "track".

Claim 8. An apparatus as set forth in claim 1, wherein the housing includes a projection extending rearwardly from the insect trap compartment, which projection supports a portion of the track means designed to support a front

end portion of the [mesh] closure member when [place] placed in its retracted position.

In claim 9, lines 20, 29 and 32, each occurrence of "mesh" is deleted.

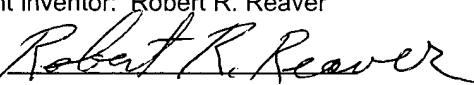
In claim 13, line 2, "mesh" is deleted.

In claim 17, lines 15, 19, 21, 27 and 30, each occurrence of "mesh" is deleted.

In claim 18, line 5, "mesh" is deleted.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements or the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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Inventor's signature: 

Date: October 15, 1997

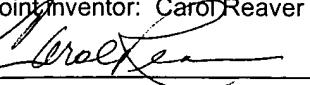
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